RECOMMENDATIONS

FOR AMENDMENTS TO THE

ELECTIONS ACT

DECEMBER 2014

ELECTIONS YUKON

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Submitted by the Chief Electoral Officer of Yukon

ELECTIONS
YUKON

December 12, 2014

Honourable David Laxton
Speaker of the Legislative Assembly
Yukon Legislative Assembly
Whitehorse, Yukon

Dear Mr. Speaker:

I have the privilege to submit my report containing recommendations for amendments to improve the administration of elections conducted under the *Elections Act*. These recommendations are submitted for the attention of the Legislative Assembly, in accordance with sections 317 and 318 of the *Elections Act*.

Should you require any additional information or clarification on anything contained in the report, I would be pleased to respond.

Sincerely,

Lori McKee
Chief Electoral Officer

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EXECUTIVE SUMMARY

This report takes a thematic approach in the presentation of legislative recommendations, rather than addressing issues in the *Elections Act* section by section. The background to each recommendation provides an overview of the current legislative provisions, along with the practical challenges that are faced by voters and those charged with administering elections. Proposed amendments would serve to provide:

- a more accessible voter registration process that lengthens the period for electors to add or update their information on the List of Electors, along with new means to manage their elector records independently;
- more flexible voter registration and voting opportunities for electors served by advance polls or institution polls;
- a uniform, simplified approach to absentee voting that allows access by voters throughout the election period, while protecting their independence and the secrecy of their votes;
- modernization of election practices and increased opportunities for innovations, both short-term and over time, to accommodate evolving expectations and allow for service enhancements; and
- enhanced clarity and equity within the framework of election finance reporting and disclosure.

Full implementation of these recommendations, particularly in the area of voter registration, would require partnerships with other public agencies and may require reciprocal legislation. Preliminary discussions with election administrators at the municipal and federal level have been encouraging in this regard.

Automation is a recurring theme throughout these recommendations and will enhance both services and resources provided to electors and political stakeholders. At the same time, automation will be supported by business continuity plans, should power or connectivity issues arise. Key activities like voter registration; filing of nomination papers; voting in the advance polls, on polling day, or from a remote location; and the timely release of unofficial results would not be compromised by an unexpected system or power failure.

These recommendations are respectfully submitted for the consideration of the Legislative Assembly. A timely decision will allow sufficient time for Elections Yukon to properly integrate legislative changes into existing processes and protocols and to develop new automated resources to better serve electors and political stakeholders.

Currently, the *Elections Act* requires a minimum of six months prior to the issuance of the writs for a general election to enact legislative changes. Given the scope of these changes, additional lead time would be necessary to fully implement these recommendations using resources available within Elections Yukon.

These changes will necessitate the preparation of new policies and procedures, training resources, and the revision and consolidation of existing forms to properly prepare election officers to implement changes during the election period and on polling day.

New information resources and forms will have to be prepared to provide political stakeholders with updated information that affects their campaigns and election finance requirements.

Considerable time and attention is necessary for the development of the election management system, which will serve all stakeholders through an interactive website that provides information customized to the user, along with general information of interest to all election participants.

Most importantly, a public awareness strategy and appropriate advertisements and notices are needed to ensure that electors are informed and prepared for active participation in the voting process.

PRINCIPLES

The recommendations contained in this report are based on a number of principles, or assumptions, that appear below.

Democracies are strengthened by a high level of voter participation

The process of voting, from the initial step of voter registration to the announcement of official results, must be easily understood and effectively implemented to avoid disenfranchising electors. Effective means of voter registration and convenient voting options must be instituted and clearly communicated to all stakeholders.

Stakeholder groups include electors and prospective electors; political parties, candidates and Members of the Legislative Assembly, along with their staff members and volunteers; election officers with responsibilities under the *Elections Act*; the media and others. Each stakeholder group has an important role to play, as well as a vested interest in effective administration of elections.

Democracies are strengthened by stakeholder trust

Electors must have confidence in the integrity of the system. It's essential that electors are served professionally and fairly, through the provision of consistent service delivery in each community. Electors' rights and responsibilities must be communicated clearly to give electors confidence that election law is being implemented correctly.

In addition to facilitating participation for stakeholders, appropriate checks and balances must be put in place to prevent non-compliance, and to identify and address any irregularities that may occur.

Elections are honour-based

Based on available research, there is no evidence of systemic voter fraud in Canada. To a great extent, participation is based on an elector's declaration of eligibility: electors are not required to produce evidence of citizenship, length of residency, or age in order to vote. Imposing stringent requirements for proof of eligibility could create an administrative barrier, resulting in wholesale disenfranchisement of certain groups of eligible electors.

While the system is honour-based, it is also self-policing. Electors vote at polling stations staffed by their neighbours and overseen by local campaign teams. Both election officers and candidates' agents may, in good faith, challenge an elector who is believed to be ineligible. Should irregularities be alleged, Elections Yukon has broad powers to investigate.

Electors are entitled to vote independently and to maintain the secrecy of their vote

The polling day process is designed to protect the entitlement to vote independently and to maintain the secrecy of the vote. The *Elections Act* contains specific prohibitions against influencing an elector's vote and offences are subject to prosecution. These proscriptions are intended to mitigate the potential for coercion and vote-buying; activities that serve to undermine the integrity of the system and along with it, public confidence in the legitimacy of the outcome. All electors should have access to effective voting options that allow them to maintain the independence and secrecy of their vote.

Electors are entitled to accessible options for participation

To ensure accessibility, electors are entitled to voter registration and voting opportunities that accommodate the diverse needs of a mobile society.

Appropriate services are needed to meet the needs of electors who may work, travel or study outside of Yukon for extended periods; those with variable and often unpredictable schedules; those with mobility issues; and those who live in isolated communities.

Electors and other stakeholders conduct their daily activities in a much different manner than at the time the *Elections Act* was originally framed. Along with increased mobility, they have embraced an electronic age that allows them to access necessary information and conduct daily business on a computer or handheld device. As shopping, banking and communications are conducted online, electors expect to receive public services in the same manner. Adding online services to the traditional means of service delivery will facilitate participation by electors and political entities, allowing access around the clock from any location with Internet connectivity.

PROCESS

Development of these recommendations began in early September with a process of stakeholder consultation. All registered political parties were invited to identify issues from past events that require statutory or procedural change and to share ideas for improving services to voters and political stakeholders.

All registered political parties with Members in the Legislative Assembly responded to the invitation. Input was shared through telephone conversations, informal discussions, and meetings. Elected officials, staff and volunteers provided a broad insight into the opportunities for improving election administration in the future. The dialogue greatly assisted in the development of this report.

The process of stakeholder consultation also included the perspective of local election administrators. An October meeting convened a group of participants who collectively possessed almost five hundred years of election experience, ranging from front-line polling day positions to the most senior positions at the electoral district level. The group of sixteen returning officers and former assistant returning officers discussed the successes and challenges of the past election and strategies for moving forward. The enthusiasm for potential service improvements made it evident that changes are necessary to address past challenges and allow for enhanced service to all stakeholders.

A thorough file review was undertaken to define the local context and history of election management in Yukon. Documentation relating to election process and election law, the summary notes from an all-party discussion that took place in early 2014, electors' letters of concern regarding past election experiences, *Hansard* records of discussions by Members of the Legislative Assembly, and newspaper articles from the 2011 general election were reviewed. The file review was supplemented by corporate memory within Elections Yukon, which provided additional insights into past procedures and challenges experienced during the last election.

The recommendations incorporate research and discussions with senior election administrators on current trends and best practices within the field of election administration. Recent studies prepared by election management bodies across Canada, literature on electoral reform, and judicial decisions that relate to current statutory provisions were consulted. Discussions with senior election administrators helped to define the national context of election practice in Canada and provided valuable insight into the benefits and challenges of the different statutory regimes that exist.

Preparation of the report followed an intensive line-by-line study of the *Elections Act*, taking all input into consideration. This process resulted in the following recommendations, designed to address past challenges and move forward in modernizing the legislation.

TERMS USED IN THE REPORT

Definitions of key terms used throughout the report have been provided to promote clarity and shared understanding. Meanings assigned to those terms used in the *Elections Act* are consistent with definitions in the Act.

Absentee voting:

The process of voting, often from a remote location, by an elector who is unable to vote at the polling places established for the advance polls or the polling day poll.

Anywhere voting:

The process that allows an elector who is outside the electoral district to complete a write-in ballot at any returning office, up to the close of the advance polls. Votes cast using this process would be counted at the close of polls on polling day, along with other absentee ballots for the electoral district.

Attestation:

A document signed by a witness to declare that information provided by another person is true and accurate. For example, an attestation of residence would be a document signed by a landlord or facility manager to confirm that an elector was, in fact, resident at the address provided by the elector.

Authentication:

The process of verifying, or confirming, an elector's identity by inspection of identification or by confirmation of a unique identification number, which is provided by the elector and compared for consistency with records held at the data source. For example, an elector's identity could be authenticated by confirming the operator's licence number provided by the elector was the licence number assigned to that person by the Motor Vehicles Branch of Highways and Public Works.

Declaration:

A written statement that is signed by a person who states that the contents are true and accurate.

Election administrators:

Persons tasked with the oversight of elections, including the chief electoral officer in Yukon and other Canadian jurisdictions, and returning officers and assistant returning officers in Yukon.

Election officers:

Persons with a duty to perform under the *Elections Act*, including the chief electoral officer, assistant chief electoral officer, returning officers, assistant returning officers, deputy returning officers, enumerators, information and resource officers, revising officers, poll clerks, interpreters, and poll attendants.

Front-line election workers:

Election officers who staff polling places, including deputy returning officers, information and resource officers, poll clerks, interpreters, and poll attendants.

List of Electors (List):

The list containing names and addresses of persons who are eligible to vote in Yukon.

Permanent List of Electors:

A List of Electors which is compiled from a Register of Electors, as opposed to one compiled from an enumeration process.

Polling place:

The building or room designated as the location for voting. A polling place may contain one or more polling stations.

Polling station:

The location within a polling place at which the vote is taken for electors within a polling division. A polling station is staffed by a deputy returning officer and poll clerk.

Register of Electors (Register):

The database containing information relating to electors and provisional electors, which is maintained for the purpose of producing Lists of Electors. Elector data held in the Register may include:

- full name,
- residential address, including the postal code,
- mailing address, including the postal code, if the mailing address is different from the residential address,
- telephone number,
- gender,
- date of birth, and
- unique identification numbers assigned to accurately identify a person.

Swearing in:

The process of an elector completing a signed declaration stating his or her eligibility to vote, in order to have his or her name added to a List of Electors in conjunction with voting on polling day.

Voter registration:

The process for an elector to add or update his or her elector record within the Register of Electors. Registration could occur through a variety of methods (in person, online, by mail, and by telephone) and over a broad timeframe (between elections, in conjunction with voting, and within the election period).

Write-in ballot:

A ballot used for absentee voting, which is marked by writing in the name of the candidate or the political party of the elector's choice (as illustrated in Appendix IV).

RECOMMENDATIONS FOR OPERATIONAL AMENDMENTS

Development of Lists of Electors prior to the Election Period

Background

In the past, Lists of Electors were compiled through an enumeration process that was conducted over ten days, early in the election period. Enumerators collected the necessary information for all electors in a residence, which was compiled into a List of Electors, used for the election, discarded following the event, and then collected anew prior to the next election.

While enumeration has long been viewed as a type of elector authentication since it occurs at a person's home and thus provides a reasonable assurance as to the elector's place of residence, it does not carry a requirement for proof of identity or eligibility (i.e. age, citizenship or 12-month residency): the declaration of the person providing information has been accepted as sufficient. Simply put, the *Elections Act* accords to voters the trust that they are who they say they are, that they reside where they answer the door, and that they meet all eligibility requirements. The same holds true for the information they provide on behalf of other resident electors.

Door-to-door enumerations are labour intensive and costly. Lifestyle changes have resulted in fewer people being found at home when the enumerator visits. People have become more reluctant to open their doors to someone they do not know. In addition, it is increasingly difficult to recruit enumerators. The overall completeness and accuracy of the Lists of Electors can suffer from all of these factors.

Enumeration staff must be commended for creating viable Lists of Electors within the time constraints experienced in the past, given the challenges facing enumerators and the many demands on returning officers during this particularly busy time within the election schedule. At the last election, concerns were expressed with respect to:

- errors and omissions on the Lists of Electors,
- the inability to identify a specific individual when electors appeared on the List with the same initials and surnames, and
- the limited utility of the hand-written Lists that were provided to political parties and candidates for use during the last election.

The importance of accurate Lists of Electors cannot be overstated. Availability of high-quality Lists of Electors is one of the single most significant determinants of a successful election.

Individual electors benefit from a comprehensive, current and accurate List of Electors by receiving notice of where to vote prior to the election. On polling day, they benefit from the streamlined voting process that results from inclusion on the List, without the requirement to complete a declaration, provide identification and present a vouching elector. Electors benefit through shorter wait times when a minimal number of electors are sworn in on polling day.

Election workers benefit by receiving accurate resources that enable them to provide efficient service to electors, without the additional encumbrance and resulting delays that come from "swearing in" electors on polling day.

Political parties and candidates benefit by receiving the resources that are needed to communicate with electors and enable their supporters to vote without difficulties. Up-to-date Lists received in advance of the election period enable parties and candidates to mobilize the participation of electors and to campaign more effectively. They benefit, as well, when public discourse remains focused on campaign issues, rather than shortcomings in the administrative process.

Members of the Legislative Assembly would benefit by having a comprehensive list of constituents to assist them in carrying out their duties and functions between elections.

Everyone benefits from a shared sense of confidence when accurate, current and complete Lists of Electors result in effective electoral administration.

In 2009, the *Elections Act* was amended to allow for enumeration prior to the election period. The amendment expands the period for collecting elector data and creating Lists of Electors from 13 to 21 days. That change will improve the quality of the Lists by allowing election administrators to focus on the training and support of enumerators without the conflicting demands of the early days of the election period. It will benefit enumerators by allowing additional time for thorough coverage of their assigned areas and increased opportunities to find electors at home.

Improvements to the quality of the Lists can be expected within the context of the current legislation and will address some of the issues identified at the last enumeration. However, the efficacy of enumeration as the best method for preparing Lists of Electors has been widely debated. Since the 1991 report of the Royal Commission on Electoral Reform and Party Financing recommended the establishment of a permanent List in each jurisdiction, virtually all provinces and territories have moved in that direction. At present, only Yukon and Manitoba still continue to conduct jurisdiction-wide enumerations prior to elections. A new approach may be imminent in Manitoba, however, following the preparation of a study on the establishment of a permanent List, which was prepared by the chief electoral officer at the direction of the Legislative Assembly.

The shift to a permanent List has occurred in response to the many challenges associated with the enumeration process, which continue to affect the overall success of this approach:

- engaging, training and supervising a large temporary workforce that is faced with a wide range of demographic, social and geographic challenges
- finding electors at home during the daylight hours that are best suited to enumerators' work
- managing security concerns of both residents and enumerators during door-to-door visits
- coping with external factors including unpredictable weather and road hazards, as well as potential injuries by dogs, uneven sidewalks and other obstacles
- collecting electors' information door-to-door when society is becoming increasingly conscious of the need for protection of personal information
- ensuring accuracy and legibility in conditions that are less than ideal and subject to human error
- managing data collection, storage, and delivery in a secure manner

Jurisdictions that have permanent Lists of Electors will often still conduct a more limited form of enumeration (or targeted enumerations) in areas of high mobility and new development. That approach would serve Yukon well, since returning officers have the requisite community knowledge to identify areas that have experienced significant change. With a permanent List, enumerating would continue to be one of several tools used to optimize accuracy of the Lists of Electors. The scope of enumeration will vary in each electoral district, depending on the characteristics of electors and residential housing within it.

Experience has shown that maintenance of a permanent List:

- improves the accuracy of Lists of Electors
- ensures election (and by-election) readiness at all times
- allows for timely provision of updated Lists of Electors to political stakeholders, following a prescribed schedule
- achieves long-term cost savings
- facilitates the redistribution of electors resulting from changes to electoral district boundaries

A permanent List of Electors is dependent on creating and maintaining a Register of Electors on an ongoing basis. The Register is a database containing elector and address information from which Lists of Electors are extracted. The Register is updated continuously, with electors' information being added, deleted, revised, and moved between addresses. The List is an extract from the Register: a snapshot of the Register at a given point in time.

While full or partial door-to-door enumerations would be options for updating the Register, other potential sources of elector updates include:

- elector-initiated contact (in person, online, by mail or by telephone) upon authentication of the elector
- data sharing partnerships (with public agencies such as the City of Whitehorse and other municipal agencies, Health and Social Services, Highways and Public Works, Elections Canada)
- input from political parties and Members of the Legislative Assembly arising from ongoing use of the Lists of Electors

Ongoing updates to the Register would expand the opportunities for elector records to be added and verified, both between elections and throughout the election period.

Recommendations – Development of Lists of Electors prior to the Election Period

1) Establish a Register of Electors using information collected during a full door-to-door enumeration prior to the next election.
2) Authorize the maintenance of a Register of Electors to be updated on an ongoing basis using information that the chief electoral officer considers to be reliable.
3) Prescribe free, unrestricted access to data held by public agencies for the purpose of verifying and updating the records of electors who have previously given their consent to be included in the Register of Electors and for contacting prospective electors.
4) Expand the information collected from each elector to include full name, residence and mailing address including postal code, date of birth, gender, phone number, and unique identifiers to facilitate data matching and updating of the Register of Electors, using data held by public agencies.
5) Require the collection of legal surnames from electors to facilitate data matching and updating of the Register of Electors.
6) Authorize the chief electoral officer to enter into agreements with municipal and federal electoral agencies for the exchange of elector and address data to update the Register of Electors and develop Lists of Electors.
7) Authorize the use of information collected during a full or partial enumeration within each electoral district to update the Register of Electors.
8) Authorize the use of existing Register of Electors data as a basis for enumeration to allow for confirmation of current, accurate elector records and to limit collection of elector information to changes and corrections.
9) Authorize direct elector contact (in person, online, by mail, or by telephone) as a means to update the Register of Electors.

Updates to the Lists of Electors within the Election Period

Background

Currently, the majority of electors' names are added to the Lists of Electors during enumeration. An elector whose name is not captured through the enumeration process has a number of options to be added to the List of Electors; none of which have an identification requirement. In fact, current legislation allows electors' names to be added to the List of Electors without the elector even being present.

The current revision process reflects a complex combination of opportunities for updating the Lists of Electors, with different restrictions, hours and locations, which are summarized below. It is difficult to effectively communicate the various options in a manner that will be clearly understood by the public.

Activity	Types of Updates Permitted	Persons Who May Initiate Updates	When Updates May be Made	Where Updates May be Made
Additions to the Lists of Electors *(Sections 135.1 – 135.3)*	Additions	Any person	Day 4 - 7, 11-14 of the election period **8 days in total**	Returning office
Revision *(Sections 136 – 147)*	Additions Changes/updates Deletions	Any person	Day 18, 19 of the election period **2 days in total**	Returning office or one alternate location within the electoral district
Special Revision *(Sections 153 – 155)*	Additions	Electors	Day 20, 21, 23-28 of the election period **8 days in total**	Returning office

Conducting the enumeration in advance of the election period will result in a greater number of electors who move prior to election day. These electors will benefit from increased opportunities to correct or update their elector records in order to vote in the electoral district in which they reside. It is important to note that the ability to correct or update elector information, once an elector's name appears on the List of Electors, is currently limited to two days.

Challenges Identified with the Current Process

Electors often assume they are on the List of Electors when they are not: confirming their inclusion requires them to be proactive in contacting a returning office. While each returning office is situated in a location that is convenient for the majority of electors, it may not be conveniently located for an individual elector. Many electors first discover that they are not on the List of Electors when they arrive to vote on polling day.

Allowing additions and updates to the Lists of Electors by persons other than electors themselves has resulted in the names of deceased electors being added, as well as inaccuracies in names and outdated addresses being added. Returning officers report that electors have attended their offices to be added to the List of Electors and have found that their information has been added by another person without their consent. All of these situations cause frustration for the elector, challenges for the election administrator and concerns regarding the integrity of the system.

While electors are eligible to add their names to the List of Electors over an eighteen-day period, they have a very limited ability to update their elector records. Electors who move following the enumeration are unable to vote in their electoral district of residence if they fail to update their elector records within a two-day timeframe, prior to polling day.

The ability to accommodate the needs of a mobile society is compromised by these limitations within the current system. Returning officers and front-line election workers are placed in an untenable situation when electors who seek to cast their ballots in their electoral district of residence are unable to do so because the process does not effectively accommodate electors who move following the enumeration.

The existing system of additions, revisions and special revisions could be simplified while expanding the timeframe and options for electors to independently provide current and accurate information for the List of Electors. This is important to accommodate the greater number of electors likely to be affected when enumeration takes place prior to the election period. Appendices I and II provide a comparison of existing and recommended voter registration opportunities.

Recommendations – Updates to the Lists of Electors within the Election Period

1) Authorize electors to add or update their information for inclusion on the List of Electors from day 1 of the election period to day 19 (in person at the returning office, online, by mail, or by telephone) upon authentication of their identity.
    - Along with increased opportunities for updating the List of Electors in conjunction with voting, this would extend the timeframe for registration, offer around-the-clock online access, and increase the options for voter registration significantly.
2) Prescribe free, unrestricted access to data held by public agencies for the purpose of confirming the identity of electors who register online, by mail, or by telephone.

3) Direct the chief electoral officer to develop and provide resources that will allow electors to determine whether their name and current address have been included on the List of Electors.

Updates to the Lists of Electors in Conjunction with Voting

Background

An elector who is not on any List of Electors at the conclusion of the special revision period may complete a declaration and vote on polling day. The elector is required to appear in person at his or her assigned polling station, before the election officers and any candidates' agents who are present. He or she is required to complete a declaration, provide identification which displays a current residence address, and appoint an elector in his or her polling division to vouch for his or her eligibility to vote. The elector whose name appears on a List of Electors at a previous address is not permitted to "swear in" on polling day and thereby barred from voting in his or her electoral district of residence.

It appears that these provisions in the *Elections Act* are intended to prohibit an elector's name from being included on a List of Electors in more than one polling division. In spite of these provisions an elector's name could easily, and inadvertently, appear twice (through enumeration or addition by another person at a previous address and on polling day by the elector at a current address). The expectation that electors would be resident to vote in the polling division in which they were enumerated was suited to enumeration within the election period - and to an electorate that was considerably less mobile than electors are today. The process for updating the Lists of Electors should accommodate this reality and enable electors to vote in their polling division of residence on polling day.

Clearly, an elector is prohibited from voting more than once. A post-election audit of electors who were added to the Lists of Electors on polling day would reveal any occasions of voter fraud and allow for appropriate action. Admittedly it would be determined after the fact, but this is no different than how it would be detected within the current system. Even with the current restriction on polling day "swear-ins", an elector determined to vote twice could be expected to "swear in" and declare he or she was not on another List of Electors; onsite polling day validation of this declaration does not occur. Acceptance of the elector's declaration is consistent with other aspects of participation within an honour-based democratic system, balanced as it is with the safeguards of community oversight at the polls and the identification requirement. Facilitating electors' ability to be included on a List of Electors at their current address is unlikely to have a deleterious effect on the integrity of the system.

While the option of "swearing in" prior to voting is available at the polls on polling day, it is not available at the advance polls. In this case, the elector must attend the returning office, complete a "Notice to Deputy Returning Officer, Advance Poll, of an Elector

Added at Special Revision" form, and then return to the advance poll to vote. Understandably, this situation causes frustration for the elector and challenges for the election administrator. Anecdotal information suggests that, in the past, some electors opted not to vote when faced with the administrative requirements.

Input from election administrators and articles in the media indicate that, during the 2011 general election, some electors were unable to satisfy the requirements for identification displaying a residence address. This particularly affected electors who reside outside of areas that have a civic addressing system, whose identification typically contains a mailing address. Those who were unable to produce identification with a residence address were unable to vote, unless they were in a polling place with a single polling station and personally known to the deputy returning officer.

Front-line experience also suggests that some electors were unable to satisfy the requirement for appointment of a vouching elector. Electors who were able to identify a potential vouching elector from within the electoral district, but not within the polling division, were unable to vote. Polling divisions in urban areas are developed largely for administrative purposes: to limit the number of electors served at each polling station. Since polling places often serve electors from four or more polling divisions that encompass a small geographic area, it is reasonable to expect that an elector is just as likely to be known personally by an elector outside his or her polling division – who may, in fact, live across the street.

Challenges Identified with the Current Requirement

The underlying purpose to be served by the identification must be carefully considered: whether it is intended to verify eligibility, place of residence, or the elector's identity (based on a photo). Similarly, the impact on electors must be considered.

Identification verifying an elector's age is quite common. At the same time, most electors do not commonly carry identification that would verify citizenship and, to date, no identification has been identified that verifies 12-month residency in the territory.

Identification containing name and current address is quite common. However, there are few types of identification that provide a residence address for electors who live outside of areas with civic addressing: most identification simply displays a mailing address. Most electors from smaller communities would not typically carry the types of documents that display their residence address (which are often limited to mortgage documents, property tax notices, or utility bills). Youth living with family members and tenants are amongst those electors who may have no access to these types of documents.

Identification containing a photo along with name and address is limited largely to government-issued identification such as operator's licences and secure identification cards issued by Highways and Public Works. This identification typically displays a mailing address for card-holders living outside of an area with civic addresses.

Recommendations – Updates to the Lists of Electors in Conjunction with Voting

1) Replace the requirement for a current residence address on identification with a requirement for a current address.

2) Require electors whose identification displays a mailing address to record their residence address within the polling division on the declaration completed at the polling place.

3) Eliminate the requirement for electors with approved identification to appoint a vouching elector.

4) Direct the chief electoral officer to prepare a list of approved identification for posting to the website and communicating to electors. The list would be prepared with input from stakeholder groups to ensure that electors without the conventional types of identification are not disenfranchised.

5) Authorize the use of attestations to serve as identification for electors at risk of being disenfranchised. These would include attestations completed by a building owner (for tenants) and by staff within a facility that provides food, shelter or other services (for electors without a fixed address).

6) Authorize the use of a declaration to be completed by an elector who is unable to provide identification, appointing a vouching elector who is on the List of Electors within the electoral district. The declaration of the vouching elector would serve in lieu of identification.

7) Authorize any election officer at the elector's polling place to serve as a vouching elector.

8) Authorize the distribution of "where to vote" cards, including the names of registered electors and information on registration opportunities for electors whose names have been omitted from the List of Electors, to enable electors to take appropriate action.

9) Authorize electors to register and be included on the List of Electors for their polling division in conjunction with voting on polling day, by completing a declaration and providing identification. Repeal the prohibition for inclusion if their name appears on another List.

10) Authorize electors to register and be included on the List of Electors for their polling division in conjunction with voting at the advance polls, using the polling day process.

11) Authorize electors to register and be included on the List of Electors for their polling division in conjunction with absentee voting by completing a declaration and providing a copy of identification.

12) Authorize the chief electoral officer to collect the previous address of electors who are included on the List of Electors in conjunction with voting to ensure integrity of the voting process and to remove outdated elector records from the Register of Electors.

Distribution of Lists of Electors

Background

Lists of Electors serve multiple purposes. They are important in identifying which individuals qualify to vote. They serve to protect the integrity of the voting process by ensuring that only those electors who are entitled to vote will be given a ballot to mark and that electors are only permitted to vote once.

The List of Electors is also a critical tool for candidates and political parties for purposes of identifying, tracking and campaigning for voter support. A reliable List that is used by both election administrators and campaign teams will ensure that electors receive consistent information regarding their inclusion on the List and where to vote.

Lists of Electors will be distributed on a timely basis in a format that is effective for both election administration and campaign purposes.

Recommendations – Distribution of Lists of Electors

1) Prescribe the following information for inclusion on Lists of Electors used for election administration: names, addresses and sequential numbers.
2) Prescribe the following information for inclusion on Lists of Electors provided to political stakeholders: names, addresses, sequential numbers, and unique identification numbers (to allow for identification of electors following a name or address change).
3) Authorize secure on-line distribution of electronic Lists of Electors to political stakeholders.
4) Authorize the distribution of one printed and/or one electronic copy of the List of Electors to political stakeholders for electoral use, including:
    - to each political party upon registration,
    - to each political party following an enumeration,
    - to each candidate following the filing of a valid nomination paper,
    - to each political party following a by-election,
    - to each political party and independent Member of the Legislative Assembly following an election,
    - to each political party and independent Member of the Legislative Assembly two years after an election and on an annual basis thereafter, and
    - to each political party and independent Member of the Legislative Assembly following the establishment of new electoral district boundaries in accordance with the *Electoral District Boundaries Act*.
5) Authorize political parties to share Lists of Electors with Members of the Legislative Assembly for carrying out Members' duties and functions.

6) Require authorized users of the Lists of Electors to take all reasonable steps to protect the Lists from misuse.

7) Authorize public access to the Lists of Electors within returning offices upon completion of an application filed with the returning officer.

Election Officer Recruitment and Responsibilities

Background

Throughout Canada, election management bodies are focusing attention on the recruitment and training of election officers, as well as the expectations placed on them. This focus is partially due to administrative irregularities that have been identified by stakeholders and by lessons learned through post-election audits of polling day documentation. In 2012, the Supreme Court of Canada upheld an election in Etobicoke Centre after it was overturned by the Ontario Superior Court of Justice due to irregularities arising from clerical errors made by front-line election officers. The process underscored the significant impact that these election officers have on the integrity of the voting process and emphasized the need for correct, consistent application of election law and established procedures.

The jobs of election officers have increased in complexity over time and are performed within an environment of greater public scrutiny than in past. Many front-line election workers serve at the municipal, territorial and federal level, and experience the challenge of applying a different set of rules at each election. Front-line election workers typically work a thirteen- or fourteen-hour day from the time they set up the polling place until they have counted ballots, reported unofficial results, and completed the requisite polling day documentation. In polling places established at a distance from returning offices, deputy returning officers are tasked with processing proxy applications and issuing proxy voting certificates, in addition to administering the normal voting process and the "swearing in" process. These front-line election workers are expected to assimilate a great deal of information following a two-hour training session to correctly implement the normal voting process. Adding the responsibility of managing the complexities of the proxy voting process, typically without an onsite supervisor, creates an environment rife with potential for human error. Consideration must be given to "right sizing" the roles of front-line election workers.

Challenges exist in recruiting a sufficient number of qualified election officers. As with any large, short-term workforce, these concerns are exacerbated by an active labour market. Expanding the pool of prospective election officers will ensure all positions are filled and will allow for appointment of the most qualified electors to senior positions. Allowing youth to fill entry-level positions will help to address recruitment challenges, build future capacity, and promote an active role in the democratic process by youth. Increasing flexibility in polling place staffing will help to ensure electors receive efficient service delivery, while recognizing the demands placed on election officers.

Recommendations – Election Officer Recruitment and Responsibilities

1) Simplify the role of election officers by limiting the responsibilities of each role.
2) Simplify the role of election officers by reducing the number of prescribed forms.
3) Authorize the appointment of an information resource officer at each polling place to ensure compliance with statutory and procedural directives and to manage voter registration, rather than limiting their appointment to polling places with four or more polling stations.
4) Authorize a deputy returning officer or poll clerk to open the poll or to continue to conduct the poll if one is temporarily absent. This will ensure that electors will be served during short, unavoidable absences and will enable election officers to take necessary breaks to maintain focus throughout an extended work day.
5) For greater certainty in regard to qualifications, authorize persons who are at least 16 years of age to serve in the role of poll attendant. Currently, the *Elections Act* is silent on qualifications.

Allowing for Innovation

Background

The *Elections Act* is very prescriptive in the implementation of the mechanics of voting. Statutory direction is necessary to establish the mandate of Elections Yukon and clearly define the services to be provided, who is entitled to receive those services, and when those services must be provided. A move to more enabling legislation would allow greater flexibility in improving the manner in which services are provided, while preserving legislative oversight.

For example, the current process for marking the poll book prescribes manual updates to a paper document. A number of jurisdictions have moved to an electronic poll book that records polling day activity in real time, providing candidates with a complete picture of polling day activity throughout the day, while allowing an elector to vote anywhere (without the risk of duplicate voting). This may be a viable opportunity for Yukon in the future.

Currently, adopting this type of innovation would require the various administrative steps involved in the process of recommending and amending legislation. It would be beneficial for the chief electoral officer to have the authority to test innovations involving new staffing models, voting processes, equipment, and technology on a timely basis.

The process would require clear specifications, stakeholder consultation, and legislative oversight. Implementation, if approved, could occur on a limited trial basis – at a by-election, in a specific electoral district, or location.

Recommendations – Allowing for Innovation

1) Authorize the chief electoral officer to direct the use of new equipment, processes, or technologies with the approval of the Members' Services Board or a similar all-party committee.
2) Require the chief electoral officer to define the scope, purpose, and specifics of the proposed trial.
3) Require the chief electoral officer to consult political parties in regard to a proposed trial and to provide public notification, via the website, if the trial is approved.

Participation by Youth

Background

While voter participation has declined across all age groups in many jurisdictions, the trend is most prevalent in electors from 18 to 24 years of age. Studies on voter participation show that only about 25% of youth vote compared to 75% of seniors. The studies also indicate that the trend continues; non-voting youth tend not to participate later in life. Conversely, those who participate as youth tend to become life-long voters.

Including youth on the List of Electors is important to avoid the possible perception of administrative difficulties that may be experienced on polling day. Concerns regarding identification and declaration requirements may affect an elector's decision to participate on polling day.

Taking proactive measures to encourage youth involvement in various aspects of the democratic process may be one step in maintaining Yukon's position as a national leader in voter participation.

Recommendations – Participation by Youth

1) Authorize students attending schools used as polling places to be present in the polling place for educational purposes.
2) Authorize enumeration of electors and provisional electors (16 and 17 year olds) in high schools to allow for ongoing communications and updates within the Register of Electors.
3) Authorize persons who are at least 16 years of age to serve in the role of poll attendant (as noted previously in the recommendations regarding election officer recruitment and responsibilities).

Advance Poll Voting Hours

Background

Electors currently have access to three days of in-person voting during the election period:

- Day 23 from 2 PM to 8 PM at an advance poll
- Day 24 from 2 PM to 8 PM at an advance poll
- Day 31 from 8 AM to 8 PM at a polling day poll

Nearly three thousand votes were cast at advance polls during the 2011 general election. As in other jurisdictions, advance poll participation is trending upwards. Across Canada, many jurisdictions have increased advance voting opportunities to facilitate participation.

Adjusting the hours of advance poll voting to mirror polling day availability would increase access to the ballot box by twelve hours over a two-day period. At the same time, offering a consistent set of voting hours would simplify communications and avoid any potential confusion by electors.

Recommendation – Advance Poll Voting Hours

1) Provide advance poll voting from 8 AM to 8 PM on day 23 and 24 of the election period.

Absentee Voting Provisions

Background

The *Elections Act* contains a number of provisions to make voting accessible to electors who are unable to vote at the advance polls or on polling day. Three different methods have been adopted:

- Mail-in voting serves electors who live in a polling division containing 25 or fewer electors.
- Proxy voting serves electors who expect to be absent from Yukon during the election period. A special provision serves isolated electors who reside in an area without regular postal service and without highway access to a polling place.
- Special ballot voting serves electors who are:
  - housebound,
  - unable to participate due to business or employment requirements,
  - students, along with their spouses and dependants, outside of their electoral district but inside Yukon,
  - temporary residents in a transition home,
  - secure voters whose inclusion on the List of Electors poses a personal risk,

- hospital patients,
- electors within a correctional institution, and
- electors who are unable to vote at their polling station on polling day after the close of the advance polls.

There is no provision for electors who are outside of the electoral district to add themselves to the List of Electors in conjunction with an absentee voting method.

Ballots for all the absentee voting methods are printed after nominations close on day 10 of the election period. Allowing time for ballot printing, distribution to returning offices and delivery to electors, ballots are often received by electors on day 17 or later. In the case of mail-in voting, the *Elections Act* prescribes that an elector must receive his or her ballot no later than day 22 of the election; 9 days before polling day. Electors have a limited timeframe to return their ballots for counting at the close of polls on polling day.

The absentee voting methods vary in many respects. For ease of comparison, seven dimensions of current absentee voting methods are presented in Appendix III. Some, like proxy voting, have a series of administrative requirements. Proxy voting requires:

- completion of an application by the elector,
- acquisition of a proxy certificate, by the elector or proxy voter, from the returning officer or a front-line election worker,
- acquisition of a ballot by the proxy voter at the voter's designated polling station, and
- annotation of the poll book by the poll clerk upon receipt of the certificate and marked ballot from the proxy voter.

Challenges Associated with the Absentee Voting Provisions

There are significant time constraints for an elector to receive, complete and return an absentee ballot that allows the elector to vote independently and secretly. This is particularly true of electors who are outside Yukon and dependent on postal service for receiving and returning their ballots.

Voting procedures in Canada and other democratic nations have evolved in a manner that accords electors independence and secrecy in the exercise of their democratic rights. The polling day process is designed to protect those rights: rights which are absent from the proxy voting process. It is important to note that proxy voting does not occur in any jurisdiction besides Yukon – likely for this reason.

An elector would obviously choose a proxy voter with care to ensure his or her ballot is marked in accordance with his or her wishes and to allow for an acceptable level of personal comfort in sharing his or her choice of candidates. However, an elector should not have to opt for proxy voting because of time constraints associated with other available means of absentee voting. The entitlement to independently cast a secret ballot is a fundamental one that should not be surrendered due to administrative considerations.

Campaign teams' involvement in the proxy voting process has the potential of raising the perception of political bias affecting the impartial delivery of electoral services. Current statutory provisions that allow campaign teams to add electors' names to the Lists of Electors and to cast ballots on their behalf using the proxy voting process include them in two vital aspects of the democratic process that must be, and perceived to be, free from the potential for political influence.

While the special ballot voting process allows for independence and secrecy, current provisions serve to limit accessibility in some particular situations, including the inability of electors to request a special ballot on polling day.

Both the special ballot and mail-in voting processes have the practical time constraints noted previously. In addition, they have the potential to disenfranchise electors who are not on the List of Electors.

The combination of processes, documents and restrictions within the three absentee voting methods create a cumbersome administrative environment that is difficult for election administrators to implement and communicate to electors. As noted in the section on election officer recruitment and responsibilities, it puts a great deal of pressure on front-line election workers who are expected to manage the complexities of the proxy voting process at the same time they manage their other polling day functions. The potential for human error increases along with the number and complexity of polling day responsibilities.

The post-election audit of election documentation, following the 2011 general election, indicated that clerical errors in the administration of proxy voting sometimes occurred. Assigning the management of absentee voting to returning officers and assistant returning officers would reduce the potential for administrative errors, given the extensive training they receive.

Election administrators also noted confusion and frustration on the part of electors who had mistakenly completed the incorrect application and were subsequently unable to vote. Adopting a single, consistent means of absentee voting would reduce the potential for confusion on the part of electors through a simplified process and streamlined communications.

Administrative challenges associated with the implementation of three different absentee voting methods would be addressed through the management of a single, consistent means for absentee voting, within the returning office. At the same time, this would expand service to a larger group of electors than those currently served by proxy, mail-in, and special ballot voting.

Recommendations – Absentee Voting Provisions

1) Establish a single, flexible absentee voting option by using a write-in ballot, which allows an elector to cast a secret ballot by writing in the name of the candidate or the political party of his or her choice. Appendix IV provides an illustration of the proposed absentee ballot.

2) Authorize an elector who is unable to vote at the advance polls or on polling day to request an absentee ballot from his or her returning officer from day 1 to 31 of the election period or from Elections Yukon during a prescribed period prior to the issuance of the writs of election. This would serve electors who are:

   - absent due to family, personal, or medical emergencies,
   - isolated electors,
   - housebound,
   - unable to participate due to business or employment requirements,
   - working outside of their electoral district or outside of Yukon,
   - studying outside of their electoral district or outside of Yukon,
   - spouses and dependants of electors working or studying outside of their electoral district or outside Yukon,
   - travelling outside of their electoral district or outside Yukon,
   - temporary residents in a transition home,
   - secure voters whose inclusion on the List of Electors poses a personal risk,
   - hospital patients, and
   - electors within a correctional institution.

3) Specify that absentee ballots would be provided to eligible electors who are resident in a polling division with 25 or fewer electors.

4) Authorize the elector to request an absentee ballot in person, in writing, by telephone, or by email.

5) Direct returning officers to provide candidates with the names and addresses of electors who have requested absentee ballots.

6) Direct the chief electoral officer to publish the names of candidates online, as nomination papers are filed in the returning offices, to provide candidate information to electors completing an absentee ballot.

7) Direct returning officers to deliver, or arrange for delivery of, absentee ballots to housebound electors within the electoral district from day 1 to 29 of the election period.

8) Require electors requesting an absentee ballot on polling day to make appropriate arrangements for delivery and return, in accordance with current delivery provisions.

9) Authorize an elector whose name does not appear on the List of Electors to be included on the List for his or her polling division in conjunction with absentee voting by completing a declaration and providing identification (as noted previously in the recommendations for updates to the List of Electors in conjunction with voting).

10) Require an elector to provide a copy of identification with the completed absentee ballot.

11) Require the return of absentee ballots to the returning office by the close of polls on polling day.

12) Prescribe that the unofficial count of absentee ballots is to be conducted by election officers in the returning office, or in a location determined by the returning officer, at the close of polls on polling day.

13) Direct the returning officer to notify candidates of the location for the unofficial count of absentee ballots and authorize the campaign team to observe the unofficial count, following the polling day process.

14) Prescribe the reporting of the absentee ballot count as a separate poll within the electoral district.

Provision of "Anywhere Voting"

Background

Most electors currently have three voting options: voting at an advance poll, at the polling station established for their polling division, and by one of the absentee voting methods, if they are qualified to do so.

In the past, electors have contacted Elections Yukon from time to time to inquire about additional early voting opportunities. Requests typically came from electors resident in northern communities who were travelling through Whitehorse to a destination outside of Yukon.

If the recommendation for a write-in absentee ballot process is implemented, it could easily be adapted for use by eligible electors who are outside their electoral districts. "Anywhere voting" would provide an ability for an elector to complete an absentee ballot in any returning office within the territory. Completed ballots would be collected by Elections Yukon for sorting and distribution to the appropriate returning officer for inclusion in the unofficial count in the electoral district in which the elector is resident. "Anywhere voting" would have to conclude prior to polling day to allow adequate time for the redistribution of ballots prior to the close of polls on polling day.

This method would effectively accommodate electors outside of their electoral districts who did not make appropriate arrangements for an absentee ballot on a timely basis, as well as those faced with unexpected travel requirements. For example, an elector from Beaver Creek who is in Whitehorse for the last half of the election period may not have time to request, receive, complete and return an absentee ballot by mail, but could vote using this method.

The integrity of the system would be supported by the use of the election management system, which is planned for implementation at the next election. The returning officer issuing the ballot would ensure the elector's inclusion on the List of Electors in his or her electoral district, authenticate the elector, issue and process the completed absentee ballot, and notify the elector's returning officer. All appropriate documentation would be transmitted to the elector's returning officer to allow for inspection during the unofficial count.

Recommendations – Provision of "Anywhere Voting"

1) Authorize an elector who is unable to vote at the advance polls or on polling day to obtain an absentee (write-in) ballot from any returning officer, up to the close of the advance polls, if the elector believes that he or she will be unable to vote using an absentee ballot issued by the returning officer in his or her electoral district.
2) Authorize an eligible elector to vote using this method by requesting an absentee ballot from any returning officer from day 1 to 24 of the election period, during returning office hours of operation.
3) Require a request for an absentee ballot issued under this provision to be made in person by the elector.
4) Require the elector to complete the absentee ballot issued under this provision at the returning office to allow sufficient time for proper redistribution.
5) Require an elector to provide identification with the absentee ballot completed under this provision.
6) Authorize an elector whose name does not appear on the List of Electors to be included on the List for his or her polling division in conjunction with absentee voting under this provision by completing a declaration and providing identification (as noted previously in the recommendations for updates to the List of Electors in conjunction with voting).
7) Direct returning officers to provide the elector's returning officer with the name and address of an elector who has completed an absentee ballot under this provision.
8) Direct returning officers to deliver absentee ballots completed under this provision to Elections Yukon in the manner prescribed by the chief electoral officer.
9) Establish a process to ensure absentee ballots completed under this provision will be included in the unofficial count in the appropriate electoral districts.

Isolated Electors' Voting

Background

There is currently a great deal of specificity relating to how services are to be provided to isolated electors, which limits the opportunity for modernizing services through the use of existing technology.

Isolated electors are currently served by a proxy vote which necessitates the application being made prior to departure to the isolated location, the appointment of a proxy voter and so on. The recommendation for amendments to absentee voting provisions would allow for independent voting by the elector, but would necessitate the acquisition of an absentee ballot prior to the elector's departure to the isolated location. Available technology like Skype or satellite phone has been used in Nunavut to allow isolated electors to be authenticated and cast their ballots from a remote location. This accommodation would allow the elector to vote using an approved means of communications within the voter assistance process.

Extremely limited application of this voting method is expected: it would be a last resort if all other methods of absentee voting were ineffective in the situation. Because the voting takes place outside the elector's polling division and in the absence of local election officers and candidates' agents, voter authentication should be incorporated. Limiting the application period to day 24 would allow returning officers to manage this function around existing responsibilities, and would ensure sufficiency of time to resolve any technical problems that may arise with connectivity or equipment.

Recommendations – Isolated Electors' Voting

1) Authorize an isolated elector to vote using a communications method approved by the chief electoral officer.
2) Require the elector to make application to the returning officer by day 24.
3) Require the elector to authenticate his or her identity prior to voting.
4) Specify that all existing provisions apply with respect to voter registration and voter assistance.

Rights of Candidates' Agents

Background

Candidates are entitled to appoint agents to observe polling place proceedings. Agents are entitled to examine the poll book and take information from it, and to convey information taken from the poll book to agents outside the polling station. They are also entitled to have ballots counted in their presence and to inspect polling day documents if they are in the polling place fifteen minutes prior to the opening of the poll.

There is currently no provision for agents to be present at the information and resource officers' stations to observe the process of adding electors to the List of Electors in conjunction with voting. This is an important step in the voting process and should be conducted in a transparent manner so it is, and is perceived to be, done in accordance with the Act. At the same time, it must respect the electors' right to privacy within the process. While it is important and necessary for agents to ensure that the identification is one of the types approved for polling day use and that it identifies the electors, it is not appropriate for agents to record unique identification numbers or to take photos or other reproductions of the identification.

Recommendations – Rights of Candidates' Agents

1) Direct that candidates' agents' rights of access extend to the information and resource officers' stations, in the same manner as the polling stations.
2) Direct that candidates' agents may inspect identification provided by electors, but may not reproduce the identification in any manner nor record any information other than that included in the poll book (names and addresses).
3) Direct that candidates' agents may inspect the declarations of qualification provided by electors, but may not record dates of birth or any other information except for that which is included in the poll book (names and addresses).

Polling Place Prohibitions: Advertising, Electronic Communications and Arms

Background

The *Elections Act* contains provisions that prohibit political advertising and campaigning in or near polling places. Similar prohibitions are common throughout other jurisdictions, with the intent of averting attempts to unduly influence the manner in which an elector is about to vote.

These provisions are important to ensure the orderly administration of elections. They exist to ensure that electors may cast their ballots free of influence or perceived intimidation. At the same time, they serve the practical purpose of reducing distractions

and interruptions from electronic communications such as radios or cell phones within polling places.

The current prohibitions need to be examined in consideration of the prevalence of electronic communications, the scope of the prohibitions, and current staffing models. Current prohibitions would be unenforceable and would likely produce unwanted effects.

For example, any person other than an election officer who makes or receives a cell phone call or a text message within 25 meters of a polling station commits an offence under the current provisions of the Act. The same prohibition applies to candidates' agents. There would be no purpose served in prohibiting these types of communications that occur outside a polling place (which could, in fact, be within the 25 meter limit) and no effective means for policing these communications.

Similarly, the prohibition on displaying a poster within 100 meters of a polling station would make it an offence for a person to display a campaign bumper sticker on a vehicle parked in the parking lot. The 100 meter radius may extend onto private property in some instances, raising a host of freedom of speech and property rights issues.

Particular use of electronic communications devices may facilitate the polling day process. Electors who are required to provide identification may have access to identification on a handheld device, but nothing in paper format. Candidates' agents may wish to communicate with a campaign office by text message for reasons specifically contemplated by existing legislation.

Conversely, other uses of electronic communications devices contravene principles established by the Act. Prosecution has been initiated by an election management agency following the posting of a marked ballot on a social media site in potential violation of secrecy provisions. Restrictions that limit the taking of pictures within a polling place to media, with prior approval, will serve to ensure that ballots remain secret.

Current staffing models require the presence of election officers within the polling place, rather than outside. Short of posting signage outside of polling places—at a 25 meter and 100 meter radius—it would be necessary to institute some means of public notification of these prohibitions. In past, it would appear that enforcement has been complaint-driven, with relatively few complaints received.

Statutory direction on voting day process is principally focused on polling place activities. Limiting the jurisdiction of election officers to polling places, and possibly the premises on which they are situated, would ensure that provisions were enforceable and would still allow election officers to maintain order within a politically neutral environment. Allowing the chief electoral officer to develop and communicate a policy on the use of electronic communications devices within polling places would ensure that the use of emerging technology is effectively addressed on a timely basis.

Recommendations – Polling Place Prohibitions: Advertising, Electronic Communications and Arms

1) Define electronic communications devices to include any devices used for the purpose of messaging by any means of telecommunication, including the communication of text, sound, voice, or image messages.
2) Prohibit the use of any electronic communications within polling places that disrupt the administrative process.
3) Prohibit the posting, display, use, wearing, or communication of anything, within a polling place and on the premises on which a polling place is located, that promotes or opposes a political party or candidate, or promotes or opposes an issue that may reasonably be associated with a political party or candidate.
4) Restrict the taking of pictures using any device to members of the media, on approval of the chief electoral officer.
5) Direct the chief electoral officer to develop a policy on electronic communications devices within polling places for display on the website and posting in polling places.
6) Repeal the prohibition on carrying arms within one kilometer of a polling place. Guidance and enforcement would be within the purview of the *Criminal Code*.

Declaration of Residence

Background

Residence for the purpose of voting is defined, in part, as a person's true, fixed, permanent home. Electors are required to vote in the polling division in which they reside.

It appears that there are two exceptions to that principle. In the first instance, candidates who were Members of the Legislative Assembly may choose to vote in their "actual residence" or a "temporary residence" within the electoral district they had represented as a Member. In the second instance, electors who are working outside their polling divisions are permitted to choose between their residence, based on the definition within the *Elections Act*, or a temporary residence established in the course of their ordinary employment.

This freedom of choice is not applied equitably: electors who may be temporarily resident outside their polling divisions for other reasons such as providing care to a family member or attending college, for example, are unable to choose between a permanent and temporary residence.

These provisions may have evolved as a result of limited absentee voting options for candidates who may have had difficulties voting in the polling places established for their polling divisions, due to the demands of the campaign period. Similarly, electors who typically worked away from home may have had practical difficulties voting in the polling places assigned to their residences.

Greater access to absentee voting would obviate the need for this exemption by eliminating the practical challenges of voting from outside the electoral district.

Recommendation – Declaration of Residence

1) Apply standard residence provisions to all electors.

Requirement for Identification when Voting (for Voters on the List of Electors)

Background

During the 2011 general election, some electors questioned the integrity of the system when electors whose names were on the List voted without showing identification. This same practice is followed in seven other jurisdictions (Alberta, Manitoba, New Brunswick, Newfoundland and Labrador, Nova Scotia, Nunavut, and Prince Edward Island).

The *Canadian Charter of Rights and Freedoms* guarantees the right to vote. The need to avoid disenfranchising electors is paramount: a principle which has been supported in judicial decisions over the years. The perfect balance of voter accessibility and security of the electoral process has been widely debated. The debate demonstrates that the same statutory environment viewed by one elector as reasonable to avoid voter fraud may be viewed by another elector as an infringement on his or her democratic right to vote.

Throughout Canada, every effort is made to promote participation in the voting process by making it simpler and more accessible. Both election administrators and political stakeholders focus a great deal of time and resources on encouraging elector participation. The benefit of increased security that may occur if identification is mandatory for all voters must be weighed against the potential disengagement that additional administrative requirements may cause.

In the 2011 general election, the administrative process associated with 96% of Yukon voters involved the deputy returning officer providing a ballot and voting instructions to the elector subsequent to the elector providing his or her name and address. This administrative process will be delayed if electors are required to locate and present identification for examination by the deputy returning officer and possibly by candidates' agents.

Potential negative effects could be mitigated by an extensive communications campaign by Elections Yukon to prepare the electorate for changes that occur to identification requirements. Specific outreach would have to be targeted at electors who are most likely to opt out of the voting process because of a perception of inaccessibility.

On balance, the input received on this issue suggests that voting takes place within an environment that is largely comprised of close-knit communities and without a perception of voter fraud. Voting at the advance polls and on polling day allows for scrutiny by neighbouring electors, election officers, and candidates' agents, with a provision that allows for an elector's eligibility to be challenged. This systemic protection integrates an element of security that absentee voting methods do not: a different standard for presentation of identification between voting in person and from a remote location may be justifiable on that basis.

At this point, provision of identification by electors whose names are on the List has been adopted in almost half of the jurisdictions in Canada. Northwest Territories reported widespread concern with the requirement, particularly its effect on many of the smaller traditional communities where electors were unable to provide acceptable identification. A decision on the appropriate balance between security and accessibility that best serves Yukon electors would benefit from fulsome consideration and broader debate by the Legislative Assembly.

Recommendation – Requirement for Identification when Voting (for Voters on the List of Electors)

1) If identification is required for voters whose names appear on the Lists of Electors, allow for flexibility in the types of acceptable identification to facilitate participation by electors at risk of being disenfranchised.

Deposit of Ballot in the Ballot Box

Background

The current voting process requires electors to return their marked ballots to the deputy returning officers for deposit in the ballot box. This allows election officers to ensure each ballot has been returned to the correct polling station in a polling place that serves multiple polling divisions and allows for proper annotation of the poll book.

Electors often express the desire to complete the voting process themselves by depositing their own ballot in the ballot box. In addition, concern is sometimes noted by electors that the ballot could be used to determine how they voted, since their ballot contains a sequential number from the poll book. Although this number, printed on the counterfoil, is removed by the deputy returning officer prior to the ballot being deposited into the ballot box, the process is sometimes misunderstood. Other jurisdictions including Alberta, British Columbia, Canada, Manitoba, Ontario, New Brunswick,

Quebec, and Saskatchewan allow electors to deposit their own ballots, following the removal of the counterfoil by the deputy returning officer. Allowing electors to deposit their own ballots has become common practice and an expectation on the part of voters.

Recommendations – Deposit of Ballot in the Ballot Box

1) Authorize the voter to deposit the completed ballot in the ballot box, following the removal of the counterfoil by the deputy returning officer.
2) Authorize the deputy returning officer to deposit the completed ballot in the ballot box to accommodate voters who require assistance and those who leave the completed ballot with the deputy returning officer.

Voting in Nursing and Retirement Homes

Background

Electors who reside in nursing and retirement homes are eligible to vote within the facility if the returning officer determines that an institution poll is needed. It would be useful to establish criteria for that determination so a consistent level of service is provided to electors in nursing and retirement homes throughout Yukon. Including facility administrators in the decision would ensure that the medical condition of resident electors is considered.

Electors whose names were omitted from the List of Electors would be subject to the regular "swearing-in" provisions. They would be required to complete a declaration of qualification in conjunction with voting on polling day, provide identification and appoint a vouching elector. This creates a practical barrier to electors without ready access to identification and those unable to appoint a vouching elector from within the polling division.

Electors have access to a stationary polling station established within the facility, however, current legislation does not effectively accommodate electors who are unable to attend the polling station due to physical incapacity.

According to the law, voting must be conducted between the hours of 10 AM and 4 PM. There is currently no ability to adjust the hours to best suit the facilities' schedule, the electors' schedules or the number of electors within the facility.

There is currently no ability to establish an institution poll to serve dependent adults resident in a supportive living facility.

Recommendations – Voting in Nursing and Retirement Homes

1) Direct returning officers to establish an institution poll in each nursing or retirement home with an elector population of at least ten electors, if deemed appropriate based on discussions with the facility administrator.
2) Direct returning officers to establish voting hours in consultation with facility staff.
3) Direct that electors within a nursing or retirement home may be added to the List of Electors on polling day by completing a declaration.
4) Authorize the institution poll to travel room to room, if necessary, to accommodate electors who are unable to attend the stationary polling station.
5) Authorize the establishment of an institution poll in a supportive living facility for dependent adults, to be conducted in the same manner.

Voting in Hospitals and Correctional Centres

Background

Currently, electors in a hospital or correctional centre are eligible to vote by special ballot in the electoral district in which they are resident, if their names appear on the List of Electors. In effect, that requires the elector to be added to the List within the first ten days of the election period or at prescribed times for additions, revisions, and special revisions. This may pose a practical burden, particularly for electors who live alone and those who are subject to constraints on movement or communications throughout the election period.

Adoption of the recommendations in this report would enable these electors to be added to the List of Electors throughout the election period, to vote by absentee ballot, and to have their names added to the List of Electors in conjunction with voting, if necessary.

This would effectively serve electors in these facilities, whether they would be temporarily resident throughout the election period or for a short time at the end of the election period. The risk of disenfranchising electors in hospitals or correctional centres due to omission from the List of Electors would be eliminated.

This would also protect the secrecy of the vote by reporting the votes cast in these facilities with the rest of the absentee ballots. In the past, single institution poll ballots have been cast in some electoral districts, revealing the manner in which the elector voted to anyone with access to the poll book maintained for the facility.

Recommendations – Voting in Hospitals and Correctional Centres

1) Exclude hospitals and correctional centres from the list of facilities to be enumerated.
2) Authorize electors who are temporarily resident in hospitals and correctional centres to apply to vote by absentee ballot in their electoral district of residence.
3) Direct the chief electoral officer to provide information on the availability of absentee voting to the administrators of hospitals and correctional centres for dissemination to electors.
4) Direct the chief electoral officer to develop attestations for use in correctional centres to serve as identification for electors whose names do not appear on the List of Electors.

Liquor Sales on Polling Day

Background

The prohibition on serving and selling liquor during polling hours was formerly a commonplace provision in Canadian jurisdictions, intended to restrict the potential for influencing or bribing an elector to vote for a particular candidate with a promise of alcohol. The current provision has limited application and only restricts the activity of liquor outlets and licensed premises on polling day.

The *Elections Act* contains an offence provision that makes it illegal for anyone to directly or indirectly offer, procure, provide, or promise to procure or provide money or other consideration to induce any person to vote or refrain from voting. The types of consideration could expressly include liquor, if it is deemed necessary. The Act also prohibits "intimidation, duress or any pretence or contrivance" that compels, induces or prevails on any person to vote: ostensibly, bribery would be contemplated within this provision.

In practical terms, it is likely unnecessary to restrict the activity of liquor outlets and licensed premises in an industry that is governed by stricter regulations than at the time this offence provision was instated. The practice has been criticized as unfair to affected businesses, particularly during by-elections when businesses within an electoral district must remain closed, while their competitors in neighbouring electoral districts continue operation - possibly within close proximity.

Recommendations – Liquor Sales on Polling Day

1) Repeal the prohibition on liquor outlets being open and on licensed premises selling or otherwise providing alcohol during polling hours.
2) Specify the prohibition for attempting to influence an elector's voting behaviour through the promise or provision of alcohol within the current offence provisions, if it is deemed necessary.

Establishment of a Fixed Election Date

Background

The current practice of establishing an election date through Order in Council creates major challenges for all stakeholder groups. In recognition of these challenges, virtually all jurisdictions have adopted a fixed election date or a fixed election period, as in Alberta. At present, only Yukon and Nova Scotia still establish the election date through Order in Council.

Planning for participation as a voter, returning officer or assistant returning officer, polling day worker, campaign worker or volunteer is difficult, particularly for individuals who commonly work, study or travel outside of Yukon. This poses a major barrier to advance staffing of returning offices and polling places: providing a firm commitment to work on an undetermined date is difficult for most people.

Schools, which are commonly used as polling places, would also benefit from advance notice of the election date. Plans for use of common areas, like gymnasiums, could be made well in advance, and consideration could be given to scheduling non-instructional days on voting days.

Establishing a fixed election date would support:

- electors, as they plan to attend the polls or determine their absentee voting options
- returning officers, in obtaining and establishing office space, polling places and necessary services
- returning officers and assistant returning officers, as they develop their personal schedules around key dates in the election period
- election officers, as they plan to work on a specific date that is known well in advance
- political parties, prospective candidates, staff, and volunteers, as they develop their personal schedules to accommodate campaign plans
- Elections Yukon, in establishing a date for enumeration outside the election period, scheduling training, sourcing necessary services, delivering supplies, and developing public communications resources

Recommendation – Establishment of a Fixed Election Date

1) Establish a fixed election date to facilitate planning by electors and other stakeholders and to increase efficiencies by Elections Yukon.

Political Party Registration

Background

Registration of a political party is subject to specific restrictions. Political parties cannot be registered by a name that includes the word "independent", or by a name that, in full or in abbreviated form, may be mistaken for a political party that is already registered. There is no statutory ability to refuse registration on the basis that the name is offensive or frivolous.

Further, there is no statutory ability to refuse an application for registration within the election period. It would be impossible to address the administrative requirements, including those for validation of signatures on the application and translation of the name if, for example, the application was received within days of printing the ballots.

Recommendations – Political Party Registration

1) Authorize the rejection of an application for registration of a political party if, in the opinion of the chief electoral officer, the name is offensive or frivolous.
2) Authorize the rejection of an application for registration of a political party if received within thirty days of the issuance of the writs of election.

Disclosure of Contributions

Background

Current provisions relating to electoral financing are quite basic. The legislation contemplates:

- the disclosure of contribution amounts
- the disclosure of contributors' information, over a specific threshold
- the disclosure of campaign expense amounts

There are no contribution or expense limits and few source restrictions on political contributors.

Disclosure provisions relating to monetary contributions from unincorporated groups are considerably more stringent than the provisions relating to monetary contributions from individuals or corporations. For unincorporated groups, the contributor's name and address is disclosed for amounts over $50, while the threshold for disclosure of individuals and corporations is $250.

Identifying individual contributors that have made contributions through an unincorporated group ensures proper disclosure. The practice serves to prohibit a group of persons from concealing the true source of contributions through the creation of an informal group that would not be recognizable by the public, in spite of public disclosure

of the group name. While the principle is sound, establishing a consistent threshold for public disclosure of monetary contributions would provide more equitable treatment to contributors, whether disclosure occurs for amounts over $50 or $250 or some other amount that is deemed to be material.

Another imbalance exists in the disclosure provisions relating to in-kind contributions, which are considerably more stringent than the provisions relating to monetary contributions. For contributors of goods and services, the contributor's name, the contribution amount based on its fair market value, and a description of the contribution is disclosed for amounts over $50. For contributions of cash or negotiable instruments, disclosure occurs for amounts over $250.

In practical terms, this would allow a person making a $240 cash contribution towards a campaign's advertising costs to avoid disclosure, while the contribution of advertising services with a $60 value would require disclosure. This offers the opportunity, in this example, for a supporter to choose to circumvent disclosure provisions by making a $240 cash contribution to a campaign and then selling the services that otherwise would have been contributed. From a perspective of consistency, monetary and in-kind contributions of identical values should be treated in the same manner.

This inconsistency may have occurred as a means to ensure compliance with the restrictions on in-kind contributions, to ensure that things like membership fees and volunteer labour are excluded. This goal could easily be achieved in another manner. Political parties and candidates could issue contribution receipts for all in-kind contributions, which would record the contributor's name, the fair market value of the contribution, and a description of the contribution. This would allow Elections Yukon to verify that total contributions are aggregated correctly on revenue returns; something that does not always occur. It would also allow Elections Yukon to follow up on contributions that fail to comply with the restrictions on in-kind contributions, regardless of the amount. Receipts for in-kind contributions would clearly indicate that they were ineligible for income tax credits.

Basing disclosure on a single threshold that is deemed to be a material amount would achieve consistency and eliminate the potential for a paper exercise to circumvent inequitable disclosure provisions.

Recommendations – Disclosure of Contributions

1) Establish consistent disclosure provisions for all contributors.
2) Establish consistent disclosure provisions for monetary and in-kind contributions received by political parties and candidates.
3) Direct the chief electoral officer to provide receipts to political parties and candidates, to be issued to contributors for in-kind contributions.

Annual Revenue Return Reporting

Background

The Act currently requires political parties and candidates to disclose the value of goods and services (in-kind contributions) received during campaigns on their election revenue returns. There is no parallel provision for disclosing in-kind contributions on an annual basis. This could result in significant inconsistencies between political parties that receive monetary contributions and those that predominantly receive in-kind contributions. This could provide a misleading picture of annual revenue generation and provides an opportunity for the purposeful avoidance of disclosure provisions through the contribution of goods and services versus monetary contributions. While the supporter would not be entitled to an official receipt and the resultant income tax credit, this may not be a concern for a supporter who is already entitled to the maximum allowable tax credit.

Similarly, disclosure of revenue from sources other than contributions does not occur on an annual basis. There is no reporting requirement of revenue such as the profits from fundraising activities.

Recommendations – Annual Revenue Return Reporting

1) Require the disclosure of in-kind contributions to political parties on annual revenue returns.
2) Require the disclosure of other revenue to political parties on annual revenue returns.
3) Define revenue to ensure full and consistent disclosure, i.e. profits from fundraising activities, nominal donations received by "passing the hat", returns on investment, and/or any other sources of income to be considered as revenue.

Acceptance of Campaign Contributions Prior to the Issuance of Writs of Election

Background

Candidates' official agents are authorized to accept campaign contributions prior to the issuance of the writs of election; the *Elections Act* prescribes that all such contributions may be receipted. The timeline for the acceptance of contributions is not defined.

This may create inconsistencies in reporting, since official agents may ascribe different timelines and may, in fact, not receipt pre-writ contributions at all, since the Act directs that they may, not that they must, issue official receipts for these contributions.

It appears that the Act is intended to disclose the reporting of all campaign contributions. Specific direction in regard to pre-writ contributions would support this principle and ensure consistency of application throughout all campaigns.

It should be noted that there is no provision for the return or other disposition of pre-writ contributions by a prospective candidate who, for any reason, does not become a registered candidate by the filing of a nomination paper. The prospective candidate may choose to return contributions to pre-writ contributors who may reasonably expect to receive a refund if an official receipt for income tax purposes is not received. However, the candidate is not compelled to do so.

Recommendations – Acceptance of Campaign Contributions Prior to the Issuance of Writs of Election

1) Specify the pre-writ time period for acceptance of campaign contributions. Alternatively, specify that all funds received for campaign purposes are to be reported as campaign contributions.
2) Specify that official agents must issue official receipts for pre-writ contributions.

Reporting of Pre-writ Campaign Expenses

Background

It is reasonable to expect that candidates may incur expenses prior to the election period in order to lease office space, order signs, print brochures, and otherwise prepare for the campaign. This is particularly true of independent candidates who are not affiliated with a political party that may assist in making pre-writ campaign preparations.

While the Act contemplates the ability to incur and pay candidates' campaign expenses prior to the issuance of writs of election, it limits candidates' reporting of expenses to those goods and services used within the election period (the period from the issue of the writ to the return to the writ). Allowable candidates' expenses that are paid by a political party are similarly limited for reporting purposes to the election period: the Act does not prescribe the reporting of expenses related to goods and services used prior to the issuance of the writs.

It appears that the Act is intended to disclose all campaign expenses, given that allowable expenses paid by political parties on behalf of candidates must be reported. Payment of candidates' expenses by political parties is currently limited to expenses incurred for notices and advertising. If a need exists for political parties to incur and pay for additional candidates' expenses, the provisions relating to allowable expenses and reporting would both require amendment.

Reporting of goods and services used prior to the issuance of the writs should be included on all election expenses returns. Specific direction in regard to pre-writ expenses would ensure full disclosure and uniformity of reporting.

Recommendations – Reporting of Pre-writ Campaign Expenses

1) Specify the pre-writ time period in which candidates are authorized to incur campaign expenses.
2) Specify that campaign expenses for goods and services used prior to the issuance of the writs are to be reported on the election expenses returns filed by political parties and candidates.

Candidate Nomination Deposit Refund

Background

An elector has three obligations to fulfill by 2 PM on day 10 of the election period in order to be nominated as a candidate in an electoral district:

- filing of a properly completed nomination paper
- filing of a statement of endorsement, if the candidate is endorsed by a political party
- payment of a $200 nomination deposit, which is refunded if the candidate receives at least 25% of the number of votes received by the candidate elected

The requirement for payment of a nomination deposit is largely intended to ensure the good faith of candidates and to discourage frivolous participants who may be seen to detract from serious campaign dialogue and trivialize the democratic process. In some jurisdictions, the requirement is also viewed as an incentive for compliance with reporting requirements, where refunds are based on the timely filing of campaigns' financial statements.

Although it was previously more common to base the nomination deposit refund on the proportion of votes received by a candidate, most jurisdictions have changed their legislation in this regard.

There have been two important judicial decisions on the matter. In 1999, *Figueroa v. Attorney General of Canada* struck down on *Charter* grounds the requirement for a candidate to pay a $500 refundable nomination deposit tied to the candidate obtaining at least 15% of the vote.

A 2007 decision by the Ontario Superior Court of Justice struck down the requirement for a $200 refundable nomination deposit tied to the candidate obtaining at least 10% of the vote. In *de Jong v. Ontario (Attorney General),* Justice Perell ruled that the deposit contravened section 3 *Charter* rights guaranteeing the right to participate as a candidate at an election. In his decision, Justice Perell cautioned that "those having access to the most financial resources may be able to monopolize the political discourse."

It is debatable whether a $200 nomination deposit would be sufficient to deter a frivolous candidate, but it is evident that courts have taken the view that this approach poses an unjustifiable risk to the participation of a serious candidate.

An alternate approach to discourage all but sincere candidates would be to strengthen the requirement for nomination by increasing the number of nominators' signatures that are needed for the nomination paper from the current requirement of 25. Establishing a maximum number relative to the elector population within the electoral district may be necessary if this approach is considered: while the collection of 100 names may be a reasonable requirement in an electoral district in Whitehorse, it may not be practical in Vuntut Gwitchin, with a resident elector population of approximately 150, based on the 2011 List of Electors.

Most Canadian jurisdictions including Alberta, Canada, New Brunswick, Newfoundland and Labrador, Northwest Territories, Nunavut, Prince Edward Island, and Saskatchewan have adopted the approach of tying the nomination deposit refund to compliance with campaign finance filing requirements. In Manitoba, Ontario, and Quebec, candidates are not required to provide a nomination deposit.

The current provision for the refund of nomination deposits based on the proportion of votes received would almost certainly not withstand a court challenge. Establishing an alternate basis for refunding deposits, or eliminating the deposit altogether, would serve to modernize the law and avoid the potential for a lengthy and costly court challenge.

Recommendation – Candidate Nomination Deposit Refund

1) Eliminate the requirement for a nomination deposit or refund nomination deposits to candidates upon filing of a completed election financing report within 90 days of polling day or the extension approved by the chief electoral officer.

Candidate Nomination Deposit Reporting

Background

The *Elections Act* prescribes that a nomination deposit is not to be included as an expense on the campaign financial statement and that the deposit, when refunded, goes directly to the candidate. Although it appears that the Act contemplates that the nomination deposit is paid by the candidate from personal funds and that the nomination deposit does not enter the campaign as a contribution, this exclusion is not specifically stated. Clarification would facilitate understanding and uniformity of reporting between campaigns.

Recommendation – Candidate Nomination Deposit Reporting

1) Clarify that the nomination deposit is to be paid from the candidate's personal funds and is not considered as a campaign contribution or campaign revenue.

Scope of Electoral Finance Provisions

Background

There are currently no provisions concerning riding associations, third party advertisers, or leadership contests. Consideration of expanding the scope of the Act to include registration, reporting, and public disclosure by these political entities may be appropriate, given the role they play in influencing political discourse.

The exclusion may be attributable to a nominal level of activity by these groups to date.

Recommendation – Scope of Electoral Finance Provisions

1) Direct the chief electoral officer to develop recommendations regarding the oversight of riding associations, third party advertisers, and leadership contests, if oversight of these political entities is deemed to be warranted.

Independence of the Election Office

Background

A cornerstone of public confidence in any democratic system of representative government is an electoral process that is administered efficiently and an electoral law that is enforced impartially[1]. Professionally run, impartial elections cannot take place without an independent, credible, transparent, trustworthy and legitimate electoral authority that inspires public confidence. According to election experts, scholars and the public, independence is the single most important attribute of a credible electoral authority. Independence refers to the insulation of electoral management from interference or undue influence by other institutions or stakeholders. The condition of independence from the executive government has become a widely accepted international norm for the design and operation of election management bodies. Those administering elections must be clearly seen as responsible to the Legislative Assembly, separate from the executive branch of government, and independent in the oversight of elections and enforcement of election law.

[1] Canada, Royal Commission on Electoral Reform and Party Financing, Reforming Electoral Democracy, Volume 1 (Ottawa: Minister of Supply and Service, 1992) p. 483.

According independence to offices of the Legislative Assembly demonstrates to the electorate that government is responsive, responsible and accountable. Since Officers of the Legislative Assembly act as a check on government accountability, it is necessary for them to be conspicuously independent from government and the public service. Public trust in these institutions arises when they are seen to be independent from government and are held accountable to the Legislative Assembly as a whole.

Elections Yukon, the electoral authority in Yukon, receives its mandate from the *Elections Act*. Elections Yukon exercises general direction and supervision over the administrative conduct of elections and enforces on the part of all election officers fairness, impartiality and compliance with the provisions of the Act. The chief electoral officer, in his or her role of heading Elections Yukon, also issues to election officers any instructions that are necessary to ensure effective execution of the provisions of the Act. The chief electoral officer oversees the process by which Members of the Legislative Assembly get elected to public office and ensures compliance with established rules on the part of all political parties, candidates, and voters. Impartiality and fairness are two essential values to be protected by the condition of independence.

The tendency by governments to treat independent offices of the Legislative Assembly as just another part of the departmental bureaucracy can give rise to the appearance of, or potential for, interference by executive government. A lack of institutionalized independence makes it difficult for outside observers to determine how constrained electoral authorities are by government directives, ministerial orders or central administrative policies and rules.

The current reporting relationship and location give rise to the potential for, and the perception of, political interference, bias, and favouritism: factors that can jeopardize the public's trust in the integrity of the office.

In order to preserve the good standing and reputation of Elections Yukon, it is imperative that it be, and be perceived to be, independent of government. It is widely accepted that locating an election management body within the direct control of government does not provide sufficient distance from the partisan political process to inspire public confidence and trust in the independence and integrity of the electoral process.

Recommendation – Independence of the Election Office

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1) Establish the chief electoral officer as an independent Officer of the Legislative Assembly, reporting to the Legislative Assembly, in the same manner as the Ombudsman, the Information Privacy Commissioner, the Child and Youth Advocate, and the Conflicts Commissioner. This would enshrine the autonomy and independence accorded to the office by convention within the statute.

ADMINISTRATIVE RECOMMENDATIONS

The following "housekeeping" amendments are recommended to increase certainty, achieve consistency, and make administrative amendments to the legislation. Within the broader context of administrative improvements, the *Elections Act* would benefit from expanding the definitions section and using plain language throughout, to further facilitate understanding.

Current statutory provision s. 23	The Commissioner in Executive Council is responsible for removal of returning officers.
Recommendation for revision	*The chief electoral officer should be responsible for removal of returning officers, given that the responsibility for appointment has shifted from the Commissioner to the chief electoral officer.*
Current statutory provision s. 44	Political parties are required to provide specific information to the chief electoral officer.
Recommendation for revision	*Replace the requirement for the provision of specific information with the requirement for the provision of contact information requested by the chief electoral officer, to support contact by alternate, more timely, methods (email and telephone).*
Current statutory provision s. 47	Political parties are required to update prescribed information upon request.
Recommendation for revision	*Require political parties to update information within 30 days of any change to registration information, to allow for ongoing contact and to ensure accuracy of information provided to the public.*

Current statutory provision s. 53	Writs of election must be published in the prescribed manner.
Recommendation for revision	*Amend the wording to prescribe the writs to be published in the prescribed form. The form of the writ, not the manner of publication, is prescribed by Order in Council.*

Current statutory provision s. 58 & others	Fully described boundaries of polling divisions must be indicated on the proclamation.
Recommendation for revision	*Replace the requirement for polling division boundary descriptions with polling division boundaries, to provide necessary information to electors in a more effective manner. A definitive map would be more informative to most electors than written polling division descriptions.*

Current statutory provision s. 69	The chief electoral officer shall not pay any enumerator's account until after the revision of the Lists of Electors has been compiled.
Recommendation for revision	*Direct the chief electoral officer to pay accounts on a timely basis. The current provision would unreasonably delay payment with enumeration prior to the election period.*

Current statutory provision s. 90	Enumerators who are unable to contact anyone in a residence must leave notices which contain specific information.
Recommendation for revision	*Amend the provision to allow for inclusion of contact information authorized by the chief electoral officer, since some of the specific information identified will not be available with enumeration prior to the election period.*

Current statutory provision s. 93	Enumerators are required to deliver record books of enumeration notices to the returning officers.
Recommendation for revision	*Expand the provision to require the return of all enumeration material.*

Current statutory provision s. 96.1	The List of Electors must be completed by the 21st day following public notice of the preparation of the preliminary Lists.
Recommendation for revision	*Require completion by the 21st day following the commencement of the enumeration to allow for advance notice to the public.*

Current statutory provision s. 102 & others	Returning officers are required to deliver specific information to candidates.
Recommendation for revision	*Amend the provision to allow for transmission versus delivery to accommodate online distribution.*

Current statutory provision s. 113	The nomination paper can be filed with the returning officer at any time after the issue of the proclamation and before 2 PM on nomination day.
Recommendation for revision	*Amend the provision to require filing within regular office hours.*

Current statutory provision s. 115	Candidates are required to provide specific contact information on the nomination paper.
Recommendation for revision	*Amend the provision to allow for the collection of contact information authorized by the chief electoral officer, to support contact by alternate, more timely, methods (email and telephone).*

Current statutory provision s. 157 & others	The *Act* refers to unmarked ballots as ballot papers.
Recommendation for revision	*Use the term unmarked ballots, rather than ballot papers, for ease of understanding.*

Current statutory provision s. 180, 190.1, 191, 196, 198	There are inconsistencies in the manner in which the qualifications, declarations, and appointments are presented for each election officer position.
Recommendation for revision	*Standardize the presentation of requirements for each election officer for ease of understanding and comparison.*

Current statutory provision s. 226	Certain persons are authorized to be present in a polling place during voting hours, including election officers, candidates, and their agents.
Recommendation for revision	*Expand the provision to include the chief electoral officer, the assistant chief electoral officer, and any person appointed in writing by the chief electoral officer.*

Current statutory provision s. 226 & others	Decisions affecting polling place management are the responsibility of the deputy returning officer.
Recommendation for revision	*Authorize the returning officer to appoint an election officer to make decisions affecting polling place management in a polling place with more than one polling station.*
Current statutory provision s. 233	A poll clerk is required to enter an elector's name and address in the poll book.
Recommendation for revision	*Require the poll clerk to ensure electors' names and addresses appear in the poll book to allow for the use of poll books that are preprinted with electors' information.*
Current statutory provision s. 256	The chief electoral officer issues identification, which includes political affiliation, to candidates' agents to be worn at the polls.
Recommendation for revision	*Amend the provision to exclude political affiliation on identification.*
Current statutory provision s. 257 & others	A poll clerk is required to make specific long-form entries in the poll book.
Recommendation for revision	*Identify the information that the poll clerk must record in the poll book, rather than the specific manner in which each annotation is to be made to allow for administrative efficiencies (i.e. a check mark in a "voted" column instead of a handwritten note).*
Current statutory provision s. 257	The poll clerk and as many as three witnesses shall be supplied with a tally sheet in the prescribed form at the count.
Recommendation for revision	*Amend the wording so that anyone present may receive a tally sheet.*
Current statutory provision s. 288	A judge who receives an application for a recount shall immediately notify the returning officer.
Recommendation for revision	*Expand the provision to include notification to the chief electoral officer.*

Current statutory provision s. 291	Certain persons are authorized to be present at a recount including candidates, up to three agents appointed by the candidate, and legal counsel representing the returning officer.
Recommendation for revision	*Expand the provision to include legal counsel representing candidates.*
Current statutory provision s. 321	The chief electoral officer must retain election documents for at least one year after the return to the writ or, if the election is contested, one year after the date on which a candidate is declared elected.
Recommendation for revision	*Prescribe election documents such as the Writ, Returning Officer's Certificate of the Result of the Official Addition of Vote, the Return to the Writ, and the Certificate of a Judge upon Completion of a Recount, if one has been prepared, to be archived in perpetuity.*
Current statutory provision s. 325	A person may take extracts from specific public documents used in an election and make certified copies of those documents.
Recommendation for revision	*Amend the provision to allow the chief electoral officer to redact personal contact information to ensure privacy of personal information.*
Current statutory provision s. 326	A notice or advertisement bearing only the name, colours, or logo of a political party, or the name of the candidate, or a combination thereof, does not require the name and address of the sponsor to be included.
Recommendation for revision	*For greater clarity, specify that sponsor identification must be included on advertisements with any other information, including the words "vote", "re-elect", or anything similar.*
Current statutory provision s. 331	Certain persons are eligible to administer declarations and affidavits pursuant to the *Elections Act*, including judges, returning officers, assistant returning officers, and others.
Recommendation for revision	*Expand the provision to include the chief electoral officer and assistant chief electoral officer on the list of eligible persons.*
Current statutory provision s. 334	It is an offence to manufacture, construct, modify, possess, or supply an election officer with a ballot box.
Recommendation for revision	*Amend the offence to prohibit these activities without the authorization of the chief electoral officer.*

Current statutory provision s. 336	It is an offence to make a false statement for the purpose of inducing a revising officer or returning officer to make erroneous entries on, or deletions from, a List of Electors.
Recommendation for revision	*Expand the provision to include enumerators.*

Current statutory provision s. 348	It is an offence to incite others to act or conspire in a disorderly manner at a public meeting.
Recommendation for revision	*Remove the offence provision for disorderly behavior at a public meeting as enforcement would be within the purview of the Criminal Code.*

Current statutory provision s. 375 & others	The chief electoral officer is required to provide receipts to officials for political parties.
Recommendation for revision	*Refer to officials for political parties as official agents for consistency in terminology (i.e. candidates' official agents).*

Current statutory provision s. 393	In-kind expenses are to be valued at "the amount, if any, that is paid."
Recommendation for revision	*This creates an inconsistency given that in-kind contributions are assigned a fair market value. For consistency, amend the expense reporting provision to require the use of goods and services to be valued at fair market value, regardless whether they are paid for or received as in-kind contributions.*

Current statutory provision s. 399	Election financing returns filed by a candidate must be completed and signed by the official agent.
Recommendation for revision	*Amend the provision to require the review and signature of the candidate as well, to allow for verification of the accuracy of the return filed on the candidate's behalf.*

APPENDICES

Appendix I	Comparison of Existing and Recommended Voter Registration Opportunities
Appendix II	Schedule of Voter Registration Opportunities
Appendix III	Absentee Voting Provisions
Appendix IV	Absentee Ballot (illustration)

Appendix I

Comparison of Existing and Recommended Voter Registration Opportunities

Existing voter registration opportunities within the election period appear below in text format on a white background.

Proposed voter registration opportunities are represented by icons on a grey background. The registration method represented by each icon is identified below.

- Voter registration by electors – online
- Voter registration by electors - in person
- Voter registration by electors - by telephone
- Voter registration by electors - by mail
- Voter registration by electors in conjunction with in-person voting
- Voter registration by electors in conjunction with absentee voting

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
					Day 0 *Writs Issued*	**Day 1**
Day 2	**Day 3**	**Day 4**	**Day 5**	**Day 6**	**Day 7**	**Day 8**
		Additions made by electors and others at returning offices				
Day 9	**Day 10**	**Day 11**	**Day 12**	**Day 13**	**Day 14**	**Day 15**
		Additions made by electors and others at returning offices				
Day 16	**Day 17**	**Day 18**	**Day 19**	**Day 20**	**Day 21**	**Day 22**
		Additions and updates made by electors and others at returning offices		Additions made by electors at returning offices		
Day 23 ADVANCE POLL	**Day 24**	**Day 25**	**Day 26**	**Day 27**	**Day 28**	**Day 29**
← ← ← ← ← ← ← Additions made by electors at returning offices → → → → → → →						
Day 30	**Day 31** POLLING DAY	**Day 32**	**Day 33**	**Day 34**	**Day 35**	**Day 36**
	Voters register at the polls					

Schedule of Voter Registration Opportunities

Opportunities and methods for electors to be added to the List of Electors, within existing legislation and through the adoption of recommended amendments, are presented below.

Adopting the recommendations contained in this report would create an effective combination of voter registration opportunities that facilitate registration throughout the election period, in conjunction with all voting options, and between elections.

The recommendations would result in a number of benefits, including:

- Giving electors the ability to register on each day of the election calendar
- Expanding opportunities for participation by offering 19 days of election period registration and 31 days of registration in conjunction with voting
- Incorporating new methods of voters' self-registration for increased convenience and independence
- Balancing the need for integrity with the need for flexibility by authenticating elector information in a manner that respects the diversity of the electorate
- Simplifying the process for electors who vote at the advance polls by allowing them to register and vote at one location
- Providing a complete List of Electors for candidates' use and public inspection by day 22
- Improving election administration through the provision of a complete and consolidated List of Electors for use at the advance polls
- Eliminating the impractical requirement for returning officers to add electors to a List of Electors that is already in use in potentially distant and inaccessible advance poll locations
- Increasing the accuracy of the List of Electors and lists of voters used by election administrators and political stakeholders

Appendix II

Elector initiated voter registration opportunities within the election period		
Current Method	*Current Information Authentication Process*	*Current Timeframe*
In person at returning offices (see Note 1) (period for additions to the List of Electors)	None	Day 4 to 7 and day 11 to 14 during returning office hours
In person at returning offices (revision period)	None	Day 18 and 19 from 9 AM to 9 PM
In person at returning offices (special revision period)	None	Day 20, 21 and day 25 to 28 during returning office business hours and day 23 and 24 from 2 PM to 8 PM
In conjunction with polling day voting	Completion of a declaration, presentation of identification to deputy returning officer, and appointment of a vouching elector who is on the List of Electors in the polling division	Day 31 during voting hours

Elector initiated voter registration opportunities within the election period		
Recommended Method	*Recommended Information Authentication Process*	*Recommended Timeframe*
In person at returning offices	Presentation of approved identification	Day 1 to day 19 during returning office business hours
Online through Elections Yukon website	Provision of a unique identification number	Submitted at elector's convenience and processed at Elections Yukon during business hours from day 1 to day 19
By telephone to returning offices	Provision of a unique identification number	Day 1 to day 19 during returning office business hours
By mail to returning offices	Provision of a copy of approved identification (see Note 2)	Submitted at elector's convenience and processed during returning office business hours from day 3 to day 19
In conjunction with proposed absentee voting provisions	Completion of a declaration and provision of a copy of approved identification	Submitted at elector's convenience and processed during returning office business hours from day 1 to 31
In conjunction with advance voting	Completion of a declaration and presentation of approved identification to deputy returning officer	Day 23 and 24 during advance poll hours
In conjunction with polling day voting	Completion of a declaration and presentation of approved identification to deputy returning officer	Day 31 during voting hours

Appendix II

Voter registration opportunities by persons on behalf of electors within the election period		
Current Method	*Current Information Authentication Process*	*Current Timeframe*
In person at returning offices (period for additions to the List of Electors)	None	Day 4 to 7 and day 11 to 14 during returning office business hours
In person at returning offices (revision period)		Day 18 and 19 from 9 AM to 9 PM
Recommended Method	*Recommended Information Authentication Process*	*Recommended Timeframe*
None	N/A	N/A

Elector initiated voter registration opportunities between events		
Current Method	*Current Information Authentication Process*	*Current Timeframe*
None	N/A	N/A
Recommended Method	*Recommended Information Authentication Process*	*Recommended Timeframe*
In person at Elections Yukon	Presentation of approved identification	Elections Yukon business hours
By mail to Elections Yukon	Provision of a copy of approved identification	Submitted at elector's convenience and processed during business hours
Online through Elections Yukon website	Provision of a unique identification number	Submitted at elector's convenience and processed during business hours
By telephone to Elections Yukon	Provision of a unique identification number	Elections Yukon business hours

Automated voter registration opportunities between events		
Current Method	*Current Information Authentication Process*	*Current Timeframe*
None	N/A	N/A
Recommended Method	*Recommended Information Authentication Process*	*Recommended Timeframe*
Electronic updates using data held by public agencies	Matching of elector name and address data held by Elections Yukon and public agency partners	Processing would occur on an ongoing basis; typically monthly or quarterly, based on data sharing arrangements

Notes:

1) Returning offices have, in past, been open from 4 PM to 8 PM on weekdays to facilitate access by electors working both day and evening shifts. In the next election, office hours will expand to include Saturdays from noon to 5 PM to increase accessibility to electoral services. Services provided in returning offices are also available in the separate offices of assistant returning officers, which are established where significant distances exist between communities.

2) A legislative amendment providing Elections Yukon with access to unique identification numbers from one or more public agencies would allow for authentication of electors' identities to ensure that revisions are initiated by the elector. Unique identification numbers from Yukon Operator's Licences and General Identification cards issued by Highways and Public Works, and Yukon Health Care Insurance Plan cards issued by Health and Social Services are particularly well suited to the purpose, since most electors have them readily available. Elector authentication would be done by staff at Elections Yukon and within returning offices when an elector seeks to be added to the List of Electors from a remote location. Election administrators would confirm that the unique identification number provided by the elector was linked to the individual's record within the public agency's database prior to adding the elector to the List of Electors. The data provided by public agencies would be limited to names and addresses only; no program information would be shared.

Appendix III

Absentee Voting Provisions

The following table compares seven aspects of the current opportunities for absentee voting.

Electors served	
Mail-in (S. 156)	Electors who reside in a polling division containing 25 or fewer electors
Special Ballot (S. 97, 101)	Electors who are: • housebound • unable to participate due to employment or business requirements • students, along with their spouses and dependants, outside their electoral district but within Yukon • temporary residents in a transition home • secure voters • hospital patients • in a correctional institution • unable to vote at a polling station after the close of the advance polls
Proxy (S. 106)	Electors who expect to be absent from Yukon during the election period
Proxy for isolated electors (S. 106.1)	Electors who live in a part of Yukon without highway access to a polling station and without regular postal services

Registration (enumeration) requirement	
Mail-in	Elector's name must appear on the preliminary List of Electors for his or her electoral district.
Special Ballot	Elector's name must appear on the preliminary List of Electors for his or her electoral district.
Proxy	Elector's name must appear on the preliminary List of Electors for his or her electoral district.
Proxy for isolated electors	There is no statutory requirement for the elector to be registered on the preliminary List of Electors. Registration would have to be completed, on the elector's behalf, during the period for additions to the List of Electors or the revision period.

Method of application	
Mail-in	Electors are not required to apply; they receive notice from the returning officer that the election in the community will be conducted by mail-in ballot.
Special Ballot	Electors may request applications online or from Elections Yukon, or from the returning officer or assistant returning officer. Application has to be made in writing within the election period and must be witnessed. After the elector has submitted an application to the returning officer, the elector receives a Special Ballot package once ballots are printed (approximately day 17). Electors may not apply for Special Ballots on polling day, so the period for receiving a ballot is limited (approximately day 17 to day 28).
Proxy	Electors may obtain proxy applications online or from Elections Yukon, or from enumerators, revising officers or returning officers. The proxy applicant may obtain a proxy certificate from a revising officer or the returning officer. Alternately, the proxy voter must obtain a proxy certificate from a revising officer, the returning officer or a deputy returning officer who is authorized to issue proxy certificates.
Proxy for isolated electors	Any time prior to the issuance of the writ, electors may file an application with the chief electoral officer, which is passed to the returning officer once the writ is issued.

Appendix III

Process for casting a ballot	
Mail-in	The elector receives a ballot, delivered by the returning officer, no later than nine days before polling day. The elector must mark the ballot and return it to the returning officer by the close of polls on polling day.
Special Ballot	The elector must mark the ballot and deliver it to the returning officer by 2 pm on polling day or, with the permission of the chief electoral officer, the elector may deliver it to his or her polling station by the close of polls on polling day.
Proxy	During the advance polls or on polling day, the proxy voter must deliver the completed proxy certificate to the deputy returning officer at the polling station designated for the proxy applicant. The deputy returning officer provides the proxy voter with a ballot, which is to be marked in the manner directed by the voter.
Proxy for isolated electors	

Secrecy of the vote	
Mail-in	Secrecy of the vote is maintained. The elector marks the ballot independently and the ballot paper envelope ensures anonymity during the counting process.
Special Ballot	Secrecy of the vote is maintained. The elector marks the ballot independently and the ballot paper envelope ensures anonymity during the counting process.
Proxy	The secrecy of the vote is lost.
Proxy for isolated electors	

Authentication of the voter	
Mail-in	The voter is authenticated by appearing on the List of Electors.
Special Ballot	The voter is authenticated by appearing on the List of Electors and signing a declaration.
Proxy	The voter is authenticated by appearing on the List of Electors and signing a declaration.
Proxy for isolated electors	

Administrative issues	
Mail-in	There is limited time available for the voter to complete and return the mail-in ballot, given that ballots have not historically been available until day 17 and given that mail-in ballots may be delivered to electors up to 9 days prior to polling day.
Special Ballot	There is limited time available for the voter to return the Special Ballot, particularly if it is returned by mail, given that ballots have not historically been available until day 17. Approximately 14 days are available to deliver the ballot to the voter and have it returned.
Proxy	This process has a series of steps and is based on a detailed form that must be properly completed, creating an administrative burden on the proxy applicant and the proxy voter. This very detailed process expands the training material taught to election officers by returning officers. This, in turn, increases the complexity of the job performed by the revising officer and the deputy returning officer and thereby increases the risk of procedural errors.
Proxy for isolated electors	

Appendix IV

Absentee Ballot

An illustration of the write-in absentee ballot appears below:

FRONT OF BALLOT

Print the name of the candidate **OR** the political party of the candidate on the line below.

I vote for:

_____

BACK OF BALLOT

Absentee Voting

Supplied by the Chief Electoral Officer of Yukon

Initial of returning officer or assistant returning officer

Serial No. 1000001